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OCA 87-0691
2 March 1987

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MEMORANDUM FOR:

Associate Deputy General Counsel for
Litigation and Intelligence Community Affairs

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FROM:

Legislation Division

SUBJECT:

Arms Export Control Legislation

1. Attached for your information and review is a copy of H.R. 898, the "Arms Export Reform Act of 1987." The bill would amend the arms export control laws to require that Congress approve the transfer of certain categories of arms under the Arms Export Control Act.

2. The bill does not appear to impact on the Agency since its scope is limited to transfers under the Arms Export Control Act. However, if you believe the bill would adversely impact on Agency operations, please let me know so that this Office may take appropriate action.

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Attachments as stated

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100TH CONGRESS
1ST SESSION

H. R. 898

To require specific congressional authorization for certain sales, exports, leases,
and loans of defense articles, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 1987

Mr. LEVINE of California (for himself, Mr. SMITH of New Jersey, Mr. SMITH of Florida, Mr. MORRISON of Connecticut, Mr. ACKERMAN, Mr. ASPIN, Mr. ATKINS, Mr. BENNETT, Mrs. BOXER, Mr. BRYANT, Mr. BUSTAMANTE, Mr. FAZIO, Mr. FEIGHAN, Mr. FRANK, Mr. GARCIA, Mr. GILMAN, Mr. GREEN, Mrs. KENNELLY, Mr. KOSTMAYER, Mr. LEVIN of Michigan, Mr. MBAZEK, Mr. MURPHY, Mr. RANGEL, Mr. SCHEUER, Mr. TALLON, Mr. TORRES, Mr. TORRICELLI, Mr. WEBER, and Mr. WOLPE) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and Rules

A BILL

To require specific congressional authorization for certain sales,
exports, leases, and loans of defense articles, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Arms Export Reform Act
4 of 1987".

5 SEC. 2. (a) Notwithstanding any other provision of law,
6 in the case of—

1 (1) any letter of offer to sell under the Arms
2 Export Control Act,

3 (2) any application by a person (other than with
4 regard to a sale under section 21 or 22 of the Arms
5 Export Control Act) for a license for the export of, or

6 (3) any agreement involving the lease under chap-
7 ter 6 of the Arms Export Control Act, or the loan
8 under chapter 2 of part II of the Foreign Assistance
9 Act of 1961, to any foreign country or international or-
10 ganization for a period of one year or longer of,

11 any item described in subsection (d), before such letter of
12 offer or license is issued or before such agreement is entered
13 into or renewed, the President shall submit to the Speaker of
14 the House of Representatives and to the chairman of the
15 Committee on Foreign Relations of the Senate a numbered
16 certification containing—

17 (A) in the case of a letter of offer to sell, the in-
18 formation described in section 36(b)(1) of the Arms
19 Export Control Act and section 36(b)(2) of such Act,
20 as redesignated by section 3(a)(2) of this Act,

21 (B) in the case of a license for export (other than
22 with regard to a sale under section 21 or 22 of such
23 Act), the information described in section 36(c) of such
24 Act, as amended by section 3(b)(1) of this Act, and

1 (C) in the case of such an agreement, the informa-
2 tion described in section 62(a) of such Act unless sec-
3 tion 62(b) of such Act applies,
4 without regard to the dollar amount of such sale, export,
5 lease, or loan.

6 (b) Notwithstanding any other provision of law and
7 except as provided in subsection (e)—

8 (1) no letter of offer may be issued under the
9 Arms Export Control Act with respect to a proposed
10 sale,

11 (2) no license may be issued under such Act with
12 respect to a proposed export, and

13 (3) no lease may be made under chapter 6 of such
14 Act and no loan may be made under chapter 2 of part
15 II of the Foreign Assistance Act of 1961,
16 of any item described in subsection (d) to a country or inter-
17 national organization (other than a country or international
18 organization described in subsection (c)) unless the Congress
19 enacts a joint resolution or other provision of law authorizing
20 such sale, export, lease, or loan, as the case may be.

21 (c) Except as provided in subsection (e), no such letter of
22 offer or license may be issued and no such lease or loan may
23 be made with respect to a proposed sale, export, lease, or
24 loan, as the case may be, of any item described in subsection
25 (d) to the North Atlantic Treaty Organization (NATO), any

1 member country of such Organization, Japan, Australia, New
2 Zealand, or any country which is a party to the Camp David
3 Accords or an agreement based on such Accords, if the Con-
4 gress within fifteen calendar days after receiving the appro-
5 priate certification enacts a joint resolution prohibiting the
6 proposed sale, export, lease, or loan, as the case may be.

7 (d) The items referred to in subsections (a), (b), and (c)
8 are those items of types and classes currently used or to be
9 used by the Armed Forces of the United States (other than
10 the Army National Guard or the Air National Guard or a
11 Reserve component of an Armed Force of the United States)
12 or produced solely for export, as follows:

13 (1) turbine-powered military aircraft; rockets; mis-
14 siles; anti-aircraft artillery; and associated control,
15 target acquisition, and electronic warfare equipment
16 and software;

17 (2) all versions of helicopters designed or equipped
18 for combat operations;

19 (3) main battle tanks and nuclear-capable artillery;
20 and

21 (4) submarines, aircraft carriers, battleships, cruis-
22 ers, frigates, destroyers, and auxiliary warships.

23 (e) The requirements of subsections (b) and (c) shall not
24 apply if the President states in his certification that an emer-
25 gency exists which requires the proposed sale, export, lease,

1 or loan, as the case may be, in the vital national security
2 interests of the United States. If the President so states, he
3 shall set forth in the certification a detailed justification for
4 his determination, including a description of the emergency
5 circumstances which necessitate the immediate issuance of
6 the letter of offer or license for export or lease or loan and a
7 discussion of the vital national security interests involved.

8 (f)(1) Except as otherwise provided in this paragraph
9 and paragraph (3), any joint resolution under subsection (b) or
10 (c) shall be considered in the Senate in accordance with the
11 provisions of section 601(b) of the International Security As-
12 sistance and Arms Export Control Act of 1976. For purposes
13 of consideration of a joint resolution under subsection (c)(1),
14 the motion to discharge provided for in section 601(b)(3)(A) of
15 such Act may be made at the end of 5 calendar days after the
16 resolution is introduced. If a joint resolution under subsection
17 (b) deals with more than one certification, the references in
18 section 601(b)(3)(A) of such Act to a resolution with respect
19 to the same certification shall be deemed to be a reference to
20 a joint resolution which relates to all of those certifications.

21 (2) For the purpose of expediting the consideration and
22 adoption of joint resolutions under subsections (b) and (c), a
23 motion to proceed in the House of Representatives to the
24 consideration of any such resolution after it has been reported

1 by the Committee on Foreign Affairs shall be highly
2 privileged.

3 (3) If the text of a joint resolution under subsection (b)
4 contains more than one section, amendments which would
5 strike out one of those sections shall be in order, but amend-
6 ments which would add an additional section shall not be in
7 order.

8 (4)(A) The joint resolution required by subsection (b) is a
9 joint resolution the text of which consists only of one or more
10 sections, each of which reads as follows: "The proposed
11 to described in the certifica-
12 tion submitted pursuant to section 2(a) of the Arms Export
13 Reform Act of 1987 which was received by the Congress on
14 (Transmittal number) is au-
15 thorized.", with the appropriate activity, whether sale,
16 export, lease, or loan, and the appropriate country or interna-
17 tional organization, date, and transmittal number inserted.

18 (B) The joint resolution required by subsection (c) is a
19 joint resolution the text of which consists of only one section,
20 which reads as follows: "That the proposed
21 to described in the certification submitted
22 pursuant to section 2(a) of the Arms Export Reform Act of
23 1987 which was received by the Congress on
24 (Transmittal number) is not authorized.",
25 with the appropriate activity, whether sale, export, lease, or

1 loan, and the appropriate country or international organiza-
2 tion, date, and transmittal number inserted.

3 SEC. 3. (a) Section 36(b) of the Arms Export Control
4 Act is amended—

5 (1) by striking out the last two sentences of para-
6 graph (1) and by striking out paragraphs (2) and (3);
7 and

8 (2) by redesignating paragraphs (4) and (5) as
9 paragraphs (2) and (3), respectively.

10 (b) Section 36(c) of such Act is amended—

11 (1) by striking out “(c)(1)” and inserting in lieu
12 thereof “(c)”; and

13 (2) by striking out paragraphs (2) and (3).

14 (c)(1) Section 62(a) of such Act is amended by striking
15 out “Not less than 30 days before” and inserting in lieu
16 thereof “Before”.

17 (2) Section 63 of such Act is repealed.

18 (3) Section 64 of such Act is redesignated as section 63.

19 SEC. 4. The provisions of this Act shall apply with re-
20 spect to any letter of offer or license for export issued, or any
21 lease or loan made, after the date of enactment of this Act.

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